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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,429	07/20/2001	Robert T. Baum	Bell-32	2654

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EXAMINER

PYZOCHA, MICHAEL J

ART UNIT	PAPER NUMBER
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2137

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/910,429

Applicant(s)

BAUM, ROBERT T.

Examiner

Michael Pyzocha

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24,26-28 and 30-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24,26-28 and 30-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

1. Claims 1-24, 26-28, and 30-38 are pending.
2. Pre-Appeal Brief Request for Review filed 11/17/2005 has been received and considered. Applicant's arguments are persuasive and therefore, the finality of the previous office action is withdrawn.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-4, 6, 14-16, 33-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Valencia et al ("Cisco Layer Two Forwarding (Protocol) 'L2F'") in view of Wallace (U.S. 5,988,497).

As per claims 1 and 33, Valencia et al discloses authentication for use with a network in which packets entering the network have at least part of layer 2 header information replaced with a unique bit string by examining at least a part

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of the unique bit string; comparing the at least a part of the unique bit string examined with information; and authenticating the party only if the at least a part of the unique bit string examined matches the information (see pages 10-11 and 14).

Valencia et al fails to disclose the authentication is used to authenticate a party involved in a transaction and the compared information is stored.

However, Wallace teaches such transactions authentication and stored information (see column 1 line 63 through column 2 line 3).

At the time of the invention it would have been obvious to a person of ordinary skill in the art for the packets of Valencia et al to be used for transaction authentication.

Motivation to do so would have been to validate a transaction (see column 1 line 63 through column 2 line 3).

As per claims 2, 34 the modified Valencia et al and Wallace system discloses approving a transaction if the party was authenticated (see Wallace column 2 lines 16-29).

As per claim 3, the modified Valencia et al and Wallace system disclose the at least a part of the unique bit string examined depends on a type of the transaction (see Wallace column 2 lines 5-15).

As per claims 4, 6, the modified Valencia et al and Wallace system disclose the stored information compared with the at least a part of the unique bit string examined depends on a type of the transaction (see Wallace column 2 lines 5-15).

As per claims 14-15, the modified Valencia et al and Wallace system discloses the unique bit string is provisioned and controlled by a network service provider (see Wallace column 2 lines 5-29).

As per claim 16, the modified Valencia et al and Wallace system discloses the act of authentication does not require the transmission of any authentication information from the party (see Wallace column 2 lines 5-29).

As per claims 35-36 the modified Valencia et al and Wallace system discloses an output for forwarding an authentication and authorization response to the transaction facility (see Wallace column 1 lines 52-62).

As per claim 37, the modified Valencia et al and Wallace system discloses the layer 2 header information is one of data link layer header and a network access layer header (see Valencia et al pages 10-11 and 14).

5. Claim 5, 7-13, 17-24, 26, 28-32, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified

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Valencia et al and Wallace system as applied to claims 1, 24, 28 above, and further in view of Mori et al (U.S. 5,880,446).

As per claims 24, 26, 28, and 30, the modified Valencia et al and Wallace system discloses examining at least a part of the unique bit string; comparing the at least a part of the unique bit string examined with stored information; and authenticating the party only if the at least a part of the unique bit string examined matches the stored information (see Valencia and Wallace as applied to claim 1).

The modified Valencia et al and Wallace system fails to disclose the unique bit string uniquely identifies the party and an ingress location of the network.

However, Mori et al teaches such information (see column 14 lines 19-40).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Mori et al's information as part of the unique bit string of the modified Valencia et al and Wallace system.

Motivation to do so would have been to include information about the buyer in the transaction (see column 14 lines 19-40).

As per claim 5, the modified Valencia et al, Wallace and Mori et al system discloses the type of transaction is selected from a group of transaction types consisting of: transactions

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greater than a predetermined amount; transactions less than a predetermined amount; purchases delivered to a credit card billing device; and purchases delivered to an address other than a credit card billing address (see Mori et al column 14 lines 19-40).

As per claims 7-13 the modified Valencia et al, Wallace and Mori et al system discloses the at least a part of the unique bit string examined identifies a location at which packets from the party to the transaction entered the network; a group to which an individual, who is a party to the transaction, belongs; a customer that is a party to the transaction; a customer identification; an individual user identification; a network ingress location (see Mori et al column 14 lines 19-40).

As per claim 17, the modified Valencia et al, Wallace and Mori et al system discloses tracking a network ingress location at which a packet associated with a transaction originated, wherein packets entering the network have at least a part of a layer 2 information replaced with a unique bit string, the method comprising: examining at least a part of the unique bit string; and determining the network ingress location from the at least a part of the unique bit string (see Wallace and DLL as applied to claim 1 where the transaction data now contains the location data of Mori et al column 14 lines 19-40).

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As per claims 18-21, the modified Valencia et al, Wallace and Mori et al system discloses the at least a part of the unique bit string examined identifies an individual who is a party to the transaction; a group to which an individual, who is a party to the transaction, belongs; a customer that is a party to the transaction; a customer identification; an individual user identification; a network ingress location (see Mori et al column 14 lines 19-40).

As per claims 22-23, the modified Valencia et al, Wallace and Mori et al system discloses the unique bit string is provisioned and controlled by a network service provider (see Wallace column 2 lines 5-29).

As per claims 27, 31 the modified Valencia et al, Wallace and Mori et al system discloses the unique bit string identifies a logical port at which the packet entered the network (see Mori et al column 14 lines 19-40).

As per claim 32, the modified Valencia et al, Wallace and Mori et al system discloses no information in addition to the unique bit string is needed for authentication the party to the transaction (see Wallace column 2 lines 5-29).

As per claim 38, the modified Valencia et al, Wallace and Mori et al system discloses the layer 2 header information is a MAC header (see Nguyen column 10 lines 46-67 as applied to DLL).

Response to Arguments

6. Applicant's arguments with respect to claims 1-24, 26-28, and 30-36 have been considered but are moot in view of the new ground(s) of rejection.

7. In response to applicant's arguments, the recitation of modifying layer 2 header information which has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). However to expedite prosecution new grounds of rejection have been made.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pyzocha whose telephone number is (571) 272-3875. The examiner can normally be reached on 7:00am - 4:30pm first Fridays of the bi-week off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJP


EMMANUEL L. MOISE
SUPERVISORY PATENT EXAMINER